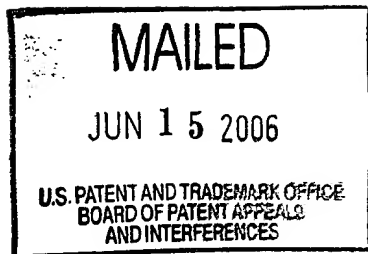


UNITED STATES PATENT AND TRADEMARK OFFICE



BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JULIET C. KRAAL and DANIEL ARBITTER

Application 09/630,918

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on May 31, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being electronically returned to the examiner. The matters requiring attention prior to docketing are identified below:

An examination of the Image File Wrapper (IFW) reveals that an Appeal Brief was filed on October 20, 2005. In response, an Examiner's Answer was mailed on January 17, 2006.

37 CFR § 41.37(c)(1)(v) reads as follows:

(c)(1) The brief shall contain the following items under appropriate headings and in the order indicated in paragraphs (c)(1)(i) through (c)(1)(x) of this section, except that a brief filed by an appellant who is not represented by

a registered practitioner need only substantially comply with paragraphs (c)(1)(i) through (c)(1)(iv) and (c)(1)(vii) through (c)(1)(x) of this section:

....

(v) *Summary of claimed subject matter.* A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

The “Summary of claimed subject matter” appearing on pages 2-7 of the Appeal Brief filed October 20, 2005 is deficient because it does not map the claimed invention to the independent claims. Correction is required.

In addition, § 1207.02 of the Manual of Patent Examining Procedure (MPEP) (8th Ed., Rev. 3, August 2005) states:

Requirements for Examiner’s Answer

The examiner’s answer is required to include, under appropriate headings, in the order indicated, the following items:

(1) Real Party in Interest. A statement acknowledging that the brief has identified by name the real party in interest.

....

(8) Evidence Relied Upon. A listing of the evidence relied on (e.g., patents, publications, admitted prior art),

and, in the case of nonpatent references, the relevant page or pages.

It is noted that while the Examiner's Answer states that "[n]o evidence is relied upon by the examiner in the rejection of the claims under appeal," the claim rejection is listed as follows:

1. Claims 1-6, 8-20 are rejected under 35 U.S.C. 103(a) as unpatentable by Nayar ("DENEb/ERGO – A Simulation-based Human Factors Tool" (1995)), in view of Purschke ("Virtual Reality-New Methods for Improving and Accelerating the Development Process in Vehicle Styling and Designing" (1998)) [pages 3 and 4].

Correction is required.

Finally, an Information Disclosure Statement was filed on October 18, 2004. It is not apparent from the record whether the examiner considered the statement submitted or notified appellants of why their submission did not meet the criteria set forth in 37 CFR §§1.97 and 1.98. A communication notifying appellants of the Primary Examiner's decision is required.

Accordingly, it is

ORDERED that the application is returned to the Examiner:

1) for notification to appellants to submit a substitute Appeal Brief which corrects the "Summary of claimed subject matter";

2) for submission of a revised Examiner's Answer which corrects the "Real Party in Interest" and the "Evidence Relied Upon" sections; and

3) for consideration of the IDS filed October 18, 2004, and appropriate notification to appellants regarding the Primary Examiner's decision; and

4) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 

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